

**GOVERNMENT OF TELANGANA
ABSTRACT**

BACKWARD CLASSES WELFARE DEPARTMENT – Appeal Petition filed by Sri Mirza Kaleem Baig, S/o Ibrahim Baig, R/o Nizamabad District filed U/s 7 of Telangana (SC, ST & BC) Regulation of Issue of Community Certificates Act, 1993 on cancellation of his BC-E Certificate by District Collector, Nizamabad District - Appeal rejected – Orders – Issued.

BACKWARD CLASSES WELFARE (OP) DEPARTMENT

G.O.Rt.No.242,

**Dated:26.07.2017
Read the following:**

- 1) The District Collector, Nizamabad District, Procs.Rc.No.C3/3059 /2014-1, Dt.15.02.2016.
- 2) From Sri N.Krishna Sumanth, Advocate Letter, dt.27.02.2016 along with appeal petition, Dated.26.02.2016 of Sri Mirza Kaleem Baig, S/o Ibrahim Baig, R/o Nizamabad District.
- 3) Govt., Memo.No.581/BCW/OP/2016, Dt.08.03.2016.
- 4) From the Collector and District Magistrate, Nizamabad District, Lr.No.C3/3059/2014, dated 12.05.2016 & 01.06.2016.
5. Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, Orders, Dt.24.06.2016 in WP.No.20471 of 2016.

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O R D E R:-

In the reference 1st read above, the Collector & District Magistrate, Nizamabad District has issued Proceedings cancelling the 'Rajaka' Backward Class Caste Certificate (B.C-E) of Sri Mirza Kaleem Baig, S/o Ibrahim Baig, R/o Nizamabad District, issued by the Tahsildar, Renjal, Nizamabad District.

2. In the reference 2nd read above, Sri Mirza Kaleem Baig, has submitted an appeal petition to Government through his advocate on the orders passed by the Collector & District Magistrate, Nizamabad District.

3. In the reference 3rd read above, Government have requested the Collector & District Magistrate, Nizamabad to send para-wise remarks, if any, along with connected original records to Government for taking further action in the matter immediately. In the reference 4th read above, the Collector & District Magistrate, Nizamabad District, has furnished the same to the Government.

4. The Collector & District Magistrate, Nizamabad District had stated that Sri Ahmed Patel S/o Shaik Raja Patel, R/o Nizamabad District had filed a complaint alleging that one Mirza Kaleem Baig S/o Ibraheem Baig R/o Kandakurthi (V) Renjal (M) has obtained false BC-E caste certificate and filed nominations and got elected as Sarpanch, Kandakurthi (V) Renjal (M) reserved for BC category and requested for action. On receipt of complaint, the RDO, Bodhan was requested to enquire into the matter. The RDO, Bodhan has reported that the matter was enquired which reveals that Mirza Khaleem Baig S/o Ibraheem Baig R/o Kandakurthi (V) Renjal (M) has obtained BC-E caste certificate vide Mee-seva ref.No.CGC056003522, dt.29.5.2013 The certificate was issued by Smt. K.Umalatha Tahsildar (FAC) Renjal. The RDO, Bodhan has also reported that the Tahsildar, Renjal issued the BC-E caste certificate to Mirza Kaleem Baig on the basis of certification made by the concerned VRO & MRI, Renjal and on the strength of caste certificate obtained by the applicant vide ref.No.D/4328/2007, dt.05.11.2007. The RDO, Bodhan has also reported that as per G.O.Ms.No.23, BCW (C2) Department, dt.07.07.2007, the community Mughal, Moghal at Sl.No.15 are excluded communities from the list of BC-E and the Surname Mirza is a Synonym of sub-group Moghal. Finally the RDO, Bodhan has requested to cancel BC-E caste certificate obtained by Mirza Khaleem Baig S/o. Ibraheem Baig R/o Kandakurthi (V) Renjal (M).

P.T.O.

5. The matter was examined by the District Level Scrutiny Committee and the following points were noted:-

- a. The counsel for the respondent i.e., Sri Mirza Kaleem Baig has defended that his client belongs to BC-E community, but did not produce any documentary evidence to substantiate his claim viz., his school records or school records of his children, copies of certificate issued to his wife, brother, sister, children's or any scholarship or Government schemes availed by them meant for BC-E Community.
- b. The Counsel for respondent has produced copies of caste certificates of Furkhan Baig & (10) others but failed to show having any relationship with those persons.
- c. As per the records produced by Sri. Mirza Kaleem Baig he has obtained as many as (3) BC-E caste certificates from the Tahsil Office Renjal and did not stated any reason for obtaining (3) caste certificates.
 - i. Mirza Kaleem Baig (BC-E), Ref.No.D/4328/2007 Dt.05.11.2007
 - ii. Mirza Kaleem Baig (BC-E), Meeseva Ref.No. CGC056003522, Dt.29.05.2013
 - iii. Mirza Kaleem Baig (BC-E), Ref.No.C/1351/2013, Dt.13.07.2015.
- d. The counsel for Mirza Kaleem Baig has stated that many person having surname as Mirza were issued BC-E certificate. This contention of the respondent is incorrect, Sri Mirza Kaleem Baig does not claim BC-E caste certificate on the ground that BC-E caste certificate was obtained by other people who in fact does not belongs to any BC-E community.
- e. Further it is clearly evident that the Government vide G.O.Ms.No.23, BC Welfare (C2) Department, Dt.07.07.2007 have included Socially and Educationally Backward Classes Muslims under BC-E category shown at Sl.No.1 to 14 therein and excluded the Sl.No.15 other Muslim Groups viz. Syed, Mughal, Pathan etc., and all the synonyms and sub groups of excluded groups. The surname Mirza is synonym of Mughal, Moghal as defined in chapter No.6.9.3 of the recommendations of P.S. Krishna committee submitted to the AP State Commission for Backward Classes and based on which reservation was provided to socially, educationally Backward Classes.
- f. The findings of the P.S.Krishnan Committee reveals that most of the Mughals are the descendants of the followers of Babar or those who were attracted to India by his successors. Men use title like Mirza, Amirzada (Leader born) and Baig and female use titles like Begham, Khanam. They are ranked next Syed and Shaik and above the Pathan. Further these Mughals are endogamous but have started marrying in to other Muslim divisions like Shaik and this aspect is evident to this particulars as the complaint belongs to Shaik and his daughter was given in marriage to Mirza Kaleem Baig's brother. The major occupations of Mughals are Agriculture, Govt & Private Service, factories, workshops, petty business, trade etc. There is no doubt that socially they are advanced and that they are not a socially backward community which can, in terms of the Constitution of India and Supreme Court judgments clarifying the Constitutional position, be included in the list of Socially and Educationally Backward Classes for the purpose of reservation in employment and education and for special measures for advancement mandated by the Constitution. The National Commission while advising the Govt. of India specifically excluded certain social groups or communities of Muslims which are not socially backward and one of such excluded groups or communities is Mughal.

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- g. The RDO, Bodhan has also enquired in the social status of Sri Mirza Kaleem Baig and reported that as per G.O.Ms.No.23, BC Welfare (C2) Department, Dt.07.07.2007, the community at Sl.No.15, Mughal, Moghal are excluded communities from the list of BC-E and the surname Mirza is the synonym of sub group of Mogha and concluded that Sri. Mirza Kaleem Baig does not belong to BC-E community and recommended for cancellation of caste certificate.
- h. Thus it is proved beyond doubt that Mirza Baig does not belongs to BC-E community and fraudulently obtained false BC-E caste certificate from the Tahsil Office, Renjal and the committee has recommended for cancellation of false BC-E caste certificate No.D/4328/2007 Dt:5.11.2007, meeseva Ref.No.CGC056003522, Dt:29.5.2013 & Ref.No.C/1351/2013, Dt:13.7.2013.
6. In view of the above facts, the Committee recommended for cancellation of Caste Certificate issued under BC-E Category, since Sri Mirza Kaleem Baig does not belong to that category BC-E (serial No.3) i.e., Rajaka Caste.
7. Accordingly, the District Collector, Nizamabad District issued Show Cause Notice.Dt.02.12.2015 to Sri Mirza Kaleem Baig and the individual submitted his reply to the Show Cause Notice on 19.12.2015.
8. The Collector & District Magistrate, Nizambad District in exercise of the powers conferred U/s. 5 (1) of Telangana (SCs, STs & BCs) Regulation of Issue of Community, Nativity and Date of Birth Certificate Rule, 1977, the bogus BC-E caste certificate issued to Sri Mirza Khaleem Baig S/o Ibraheem Baig R/o Kandakurthi (V) Renjal (M), Nizamabad District was cancelled and declared that Sri Mirza Khaleem Baig does not belong to BC-E by the District Collector, Nizamabad District vide Procs.Rc.No.C3/3059/2014-1, Dt.15.02.2016.
9. Aggrieved by the orders issued by the District Collector, Nizamabad District, Sri Mirza Kaleem Baig, has filed an appeal petition Dt.26.02.2016, against the orders of the Collector and District Magistrate, Nizamabad District dated.15.02.2016 issued in Procs.No.C3/3059/2014-1, before Government, under Rule 7 of the Telangana SCs, STs & BCs, Issue of Community, Nativity & Date of Birth Certificate Rules,1977, and requested to set aside the orders passed by the District Collector, Nizamabad District and pass such other suitable order or orders in the circumstances of the case.
10. The applicant Sri Mirza Khaleem Baig S/o Ibraheem Baig R/o Kandakurthi (V) Renjal (M), Nizamabad District in his appeal petition has that several caste certificates on BC-E were issued to several persons with surname 'Mirza', similar to that of the appellant's caste certificate and as such the status of the appellant as belonging to BC-E cannot be denied; Sri Shaik Ahmed Patel S/o. Shaik Raja Patel does not have locus-standi to file the complaint, he being a near relative, and that he is not an aggrieved party; There is no concrete evidence or material to show that surname Mirza is synonym to Moghal or Mughal; The appellant stated that initial burden of proof as required under Section 6 of AP (SC, ST & BC) RICC Act, 1993 has been discharged by the appellant by establishing that the Tahsildar/Mandal Revenue Officer conducted proper local enquiry while issuing the caste certificate, and nothing concrete has been found by the District Collector, Nizamabad and RDO, Bodhan to discharge such burden. As such, the impugned proceedings are liable to be set aside.
11. Government had called for hearing on the appeal petition of Sri Mirza Kaleem Baig, S/o, Ibrahim Baig, Nizamabad District on 28.09.2016, 5.11.2016, 19.12.2016 and 09.03.2017. But the hearings were got postponed due to call for unexpected meetings. The appeal was heard on 18.04.2017. Sri Mirza Kaleem Baig had requested the Government to give time of one (1) month for producing documents.

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12. Government have observed the appeal petition of Sri Mirza Kaleem Baig, records furnished by the District Collector, Nizamabad District, materials available on record in Government and after hearing the appeal on 24.07.2017 have observed that Sri Mirza Kaleem Baig, S/o, Ibrahim Baig, Nizamabad District did not put forth any new grounds material to consider his appeal and also has not produced any documentary evidence even after given sufficient time. He has not produced any Caste certificates issued to the family members .i.e., father, mother, brother, sister, daughter, son or any other relatives, any School records showing the caste of their family members/relatives as BC-E or any other documentary proof. Under Rule 7 of the Telangana (SCs, STs and BCs) Regulation of Issue of Community Certificates Rules, 1997, the burden of proof lies with the appellant and the appellant have failed to produce sufficient records/proof before the Government.

13. Accordingly, Government hereby reject and dismiss the appeal petition filed by Sri Mirza Kaleem Baig, S/o, Ibrahim Baig, Nizamabad District in exercise of the powers conferred under Section 7(2) of Telangana (SCs, STs and BCs) Regulation of Issue of Community Certificates Act, 1993, and Rules, 1997 and uphold the Proceedings of the District Collector, Nizamabad District, issued in Rc.No.C3/3059/2014-1, Dt.15.02.2016 and the appeal petition stand rejected.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**G.ASOK KUMAR
PRINCIPAL SECRETARY TO GOVERNMENT**

To

1. Sri Mirza Kaleem Baig, S/o, Ibrahim Baig, Sarpanch
H.No. 4-43, Kandakurthi village, Rengal (M), Nizamabad District
2. Sri Shaik Ahmed Patel, S/o Shaik Raja Patel, R/o Kandukurthy
(V), Rajal (M), Nizamabad District
3. The Commissioner of BC Welfare, Telangana, Hyderabad
4. The Collector and District Magistrate, Nizamabad District

Copy to:

The P.S. to Minister BC Welfare,
Telangana Secretariat, Hyderabad
Sri B.S.Prasad, Spl. Government Pleader for
Social Welfare Department, State of Telangana,
High Court Buildings, Hyderabad
SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER